

PATENT

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3/24/06

Date:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant(s): Allan Herrod, *et al.*

Serial No: 10/057,463

Filing Date: January 24, 2002

Examiner: Congvan Tran

Art Unit: 2688

Title: TERMINAL WITH OPTICAL READER FOR LOCATING PRODUCTS IN A RETAIL ESTABLISHMENT

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

Appellants' representative submits this Reply Brief in response to the Examiner's Answer dated January 25, 2006. A Request for Oral Hearing and a credit card payment form are filed concurrently herewith, wherein the credit card payment form is believed to cover all fees due regarding this document and the Request for Oral Hearing. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [SYMBP188US].

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REMARKS

Claims 75-92, 95 and 96 are currently pending and are presently under consideration. Claims 93 and 94 stand withdrawn without prejudice or disclaimer. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein. In particular, the following comments address deficiencies contended in the Examiner's Answer to Appellants' Appeal Brief.

I. Regarding the Rejection of Claims 75, 77-78 and 95-96 Under 35 U.S.C. §102(e)

The Examiner incorrectly maintains the rejection of claims 75, 77-78, 95, and 96 under 35 U.S.C. §102(e) as being anticipated by Azar (U.S. 5,778,177). Appellants' representative respectfully requests that this rejection be reversed for at least the following reasons. Azar fails to disclose all features of the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim.* *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The claimed invention relates to a product location information retrieval system. In particular, independent claims 75, 95 and 96 recite similar aspects, namely a computer terminal...arranged to receive a data input query from a customer *relating to one or more products located in a product zone...a wireless signal associated with information relating to the one or more products within the product access zone* and a display that presents an image...*based at least in part upon the wireless signal*. Azar fails to teach or suggest such claimed features.

Azar employs multi-dimensional scanners and allows a scanned image to be transferred amongst multiple computer terminals. On pages 8-9 of the Examiner's Answer (dated January 25, 2006), the Examiner asserts that the claimed invention does not require information that is

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displayed to the user to correspond with information that was originally scanned in by the user. More particularly, the Examiner asserts that while the wireless signal is associated with information relating to products in a product access zone, no requirement exists that the wireless signal be associated with the particular product that has been input into the computer by the user, and thus the display does not have to present an image related to the input data. Appellants' representative disagrees. Independent claim 75 recites *a computer terminal with an optical reader arranged to receive a data input query from the customer relating to one or more products located in a product access zone...a remote link that receives a wireless signal from an access point and transmits the wireless signal to the computer terminal, wherein the wireless signal is associated with information relating to the one or more products within the product access zone*. In view of the antecedent basis provided for the one or more products within the product access zone, it is readily apparent that the wireless signal is associated with the same one or more products within the product access zone that relate to the data input query entered at the computer terminal.

Claim 75 further recites *a display that presents an image of the one or more products to be accessed by the user, the image is based at least in part upon the wireless signal*. The antecedent basis for the wireless signal in this portion of the claim makes it readily apparent that the image is based on the same wireless signal that is associated with information relating to the one or more products within the product access zone. Furthermore, as established above, information in the wireless signal is associated with the one or more products within the product access zone that relate to the original customer data input query. Therefore, contrary to the Examiner's assertion, the image of the product in the product access zone is related to the original data input query at the computer terminal. As a consequence, Azar merely scans images at either one of two end user stations and wirelessly transfers the images without contemplating returning an image to an end user station that is based on a data input query about one or more products that that end user station entered. Therefore, Azar fails to meet all the features recited in independent claim 75 (and similarly recited in independent claims 95 and 96).

In view of at least the foregoing, it is readily apparent that Azar fails to disclose the identical invention in as complete detail as is contained in the subject claims. Accordingly, reversal of this rejection with respect to independent claims 75, 95 and 96 (and the claims that depend there from) is respectfully requested.

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II. Regarding the Rejection of Claims 76, 80-87 and 92 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claims 76, 80-87 and 92 under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Durbin *et al.* (US 6,039,258). It is respectfully requested that this rejection be reversed for at least the following reasons. Azar and Durbin *et al.*, either alone or in combination, fail to teach or suggest all features set forth in the subject claims. In particular, Durbin *et al.* does not make up for the aforementioned deficiencies of Azar with respect to independent claim 75 (which claims 76, 80-87 and 92 depend from). Thus, the subject invention as recited in claims 76, 80-87 and 92 is not obvious over the combination of Azar and Durbin *et al.* Therefore, it is respectfully submitted that this rejection be reversed.

III. Regarding the Rejection of Claims 79 and 88 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claims 79 and 88 under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Yamamoto (US 5,991,276). It is respectfully requested that this rejection be reversed for at least the following reasons. Azar and Yamamoto do not teach or suggest each and every element set forth in the subject claims. In particular, Yamamoto does not make up for the aforementioned deficiencies of Azar with respect to independent claim 75 (which claims 79 and 88 depend from). Thus, the subject invention as recited in claims 79 and 88 is not obvious over the combination of Azar and Yamamoto. Accordingly, this rejection should be reversed.

IV. Regarding the Rejection of Claims 89 and 90 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claims 89 and 90 under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Soltesz (US 5,756,978). It is respectfully requested that this rejection be reversed for at least the following reasons. Azar and Soltesz, individually or in combination, do not teach or suggest each and every element set forth in the subject claims. In particular, Soltesz does not make up for the aforementioned deficiencies of Azar with respect to independent claim 75 (which claims 89 and 90 depend from). Thus, the subject invention as recited in the subject claims is not obvious over the combination of Azar and Soltesz. Therefore, it is respectfully submitted that this rejection be reversed.

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V. Regarding the Rejection of Claim 91 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claim 91 under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Copland (US 5,717,430). It is respectfully requested that this rejection be reversed for at least the following reasons. Azar and Copland do not teach or suggest each and every element set forth in the subject claims. In particular, Copland does not make up for the aforementioned deficiencies of Azar with respect to independent claim 75 (from which claim 91 depends). Thus, the subject invention as recited in claim 91 is not obvious over the combination of Azar and Copland. Accordingly, reversal of this rejection is respectfully requested.

Conclusion

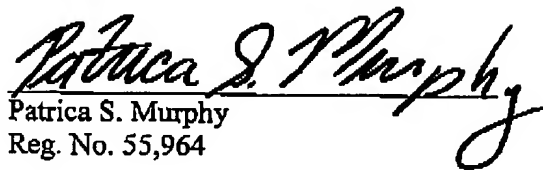
The subject application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP188US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact appellants' undersigned representative at the telephone number below.

Respectfully submitted,

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